



CITY OF SANTA BARBARA

CITY COUNCIL AGENDA REPORT

AGENDA DATE: July 12, 2011

TO: Mayor and Councilmembers

FROM: Environmental Services Division, Finance Department

SUBJECT: Options For Reducing The Distribution Of Single-Use Bags Within The City Of Santa Barbara

RECOMMENDATION:

That Council receive a report regarding options presented to, and recommendation of, the Ordinance Committee for reducing the distribution of single-use bags within the City of Santa Barbara.

EXECUTIVE SUMMARY:

On February 1, 2011, Council referred consideration of a range of options for reducing the distribution of single-use bags throughout the City of Santa Barbara to the Ordinance Committee. On April 19, 2011, the Ordinance Committee voted 2-1 to take no additional action beyond the current efforts, as provided in Option 1 discussed later in this report. The Committee Chair then referred the item back to the full Council for consideration.

In an effort to determine the scope of the problem created by single use plastic bags, staff has determined the following based upon more current research:

- The majority of all single-use plastic bags used in the City appear to be captured in the waste stream and buried at Tajiguas Landfill. While some quantity of single-use bags is observed as litter in the environment, their contribution to the litter problem in the City's parks, creeks and beaches does not appear to be significant.
- There is evidence that single use plastic bags in the marine environment can harm marine organisms. However, the number of plastic bags generated within the City that make their way into the marine environment is unknown.
- From a life-cycle perspective, there appears to be more agreement in the literature that re-usable bags pose the least impact to the environment, while air emissions, waste production, and water pollution associated with paper bags is equal to or greater than plastic bags.

Staff has identified four options for reducing the distribution of single-use bags in the City. An evaluation of the impacts to the City, to retailers, to the consumers and the environment posed by each option is provided later in this report.

Several jurisdictions throughout California have adopted ordinances of various forms to regulate the distribution of single-use paper and plastic bags. The environmental impact analyses underpinning some of these ordinances have been challenged in the courts with varying degrees of success.

Since the February 1, 2011 Council meeting, the Albertsons Grocery Company launched its "bagless" program at its Carpinteria store. Therefore, the store no longer offers paper or plastic bags at checkout. Moreover, plastic bags and film plastics are now accepted in co-mingled recycling carts, cans and dumpsters throughout the City. City and County staff recently secured an agreement with Gold Coast Recycling, the City's processor, to recycle these materials which will help reduce the number of plastics bags that wind up at Tajiguas Landfill.

DISCUSSION:

On February 1, 2011, Council referred to the Ordinance Committee consideration of all options for reducing the distribution of single-use bags throughout the City.

The options consisted of the following:

1. Take no further action.
2. Adopt a City ordinance effectively mandating that retail and other stores provide the elements of the existing voluntary Where's Your Bag? Program.
3. Allow the voters to decide through a ballot measure whether a City special tax should be imposed on single-use plastic and/or paper bags distributed by retailers.
4. Adopt an ordinance to prohibit the distribution of single-use plastic bags by retailers.

After receiving a presentation from staff on April 19, 2011, the Ordinance Committee voted 2-1 to take no further action on the issue (Option #1). The Committee Chair then stated that all options would be referred back to Council for further consideration.

Scope of the Problem:

To define the scope of the single-use bag “problem,” staff researched the following questions:

1. To what extent do single-use bags contribute to litter in the environment?
2. What risk do single-use plastic bags originating in the City pose to the marine environment?
3. Based upon life-cycle analyses, how do various types of bags compare with one another?

Whether single-use bags comprise a significant portion of litter is inconclusive. Based upon statewide statistics, staff estimates that retailers throughout the City distribute approximately 29 million single-use bags each year. An assessment of the City’s waste stream conducted in 2009 suggests that the vast majority of these bags is captured in the waste stream and are ultimately buried at Tajiguas Landfill.

Besides examining landfill data, staff also surveyed other City departments and local agencies. Parks Department staff reported that littered single-use bags are rarely encountered in City parks. This same observation was echoed by Harbor Patrol staff, who stated that disposable cups are observed along the waterfront in much greater quantities than are single-use bags. Clearly, this is not a scientific analysis since it relies on anecdotal evidence only.

Creeks Division staff reported that plastic bags were observed (along with other types of litter) in 268 littered sites cleaned up in Fiscal Year 2010. A survey of one-quarter mile of Sycamore Creek conducted by Santa Barbara Channelkeeper in April of 2011 encountered 42 plastic bags. Moreover, coordinators of Coastal Cleanup Day report that they collected more than 700 plastic bags each year along coastal areas countywide in 2009 and 2010.

Besides the issue of litter, staff also researched the potential adverse impact that single-use plastic bags generated in the City may have on the marine environment. While some quantity of single-use plastic bags is observed in the environment, how many bags generated within the City find their way into the marine environment is unknown. Those that do, have the potential to harm marine species. According to the U.S. Environmental Protection Agency, intact plastic bags can harm marine species when they accidentally ingest plastic bags, mistaking them for food.¹ Ingestion can lead to starvation

¹ S.B. Sheavly. 2007. “National Marine Debris Monitoring Program: Final Program Report, Data Analysis and Summary.”
Prepared for U.S. Environmental Protection Agency by Ocean Conservancy, Grant Number X83053401-02. 76 pp.

or malnutrition when marine debris collects in the animal's stomach, thus causing it to feel full. One study shows that of 38 green turtles surveyed, 61 percent had ingested some form of marine debris including plastic bags, cloth, and rope or string².

Critics of plastic bags often cite the depletion of non-renewable resources in the production of plastic bags as a primary environmental concern. Plastic bags are produced using polyethylene polymers through a process called blown film extrusion. Ethylene, from which polyethylene is derived, is a component of raw natural gas, which must be removed before the gas can be used for combustion. For this reason, the plastics industry asserts that producing plastic bags from ethylene essentially transforms a nuisance product to a beneficial use through the production of plastic bags. Staff has not been able to independently verify this claim.

The final issue researched by staff was how various types of bags compare with one another based upon their overall impact to the environment. Life-cycle analysis, the study of the environmental impacts by a product through all stages of its existence, from production through disposal, is often used to assess environmental impacts. While there does not appear to be widespread consensus in published literature, there does seem to be more agreement that reusable bags ultimately result in fewer environmental impacts than paper or plastic bags and that air emissions, waste production, and water pollution associated with paper bags is equal to or greater than plastic bags.

Options for Reducing the Distribution of Plastic Bags

Staff has prepared information regarding the factors that should be considered when evaluating each option, including the potential impacts on the consumer, retailers, the City and the environment. Please note that an in-depth discussion of previous Council actions, statewide legislation on this issue and the environmental considerations of single-use bags was included in the February 1, 2011 Council Agenda Report and is therefore not included in this report.

Option 1: Take No Action At This Time

Under this approach, retailers could continue to distribute plastic and paper bags without restriction. Pursuant to previous Council direction, staff would continue to promote reusable bags through the voluntary "Where's Your Bag?" Program.

² Environmental Protection Agency. Marine Debris Impacts. April 15, 2011. Retrieved from http://water.epa.gov/type/oceb/marinedebris/md_impacts.cfm

Potential Impacts:

Consumer: Consumers would continue to receive plastic or paper bags. Retailers would continue to pass on the cost of single-use bags to consumers in the purchase price of goods at a cost of approximately \$.02 - \$.03 per plastic bag and \$.04 – \$.11 per paper bag³.

City: Under this option, the City would not incur any additional costs beyond those currently allocated to remove single use bags as a component of other litter and illegally dumped waste. The current impact to the City posed by littered bags throughout the City is difficult to quantify. In Fiscal Year 2010, the Creeks Division reported that it spent \$27,000 to clean up approximately 268 littered sites that contained plastic bags. However, since single-use bags do not generally comprise a substantial portion of litter, it is unknown what impact a ban on plastic bags would have on the number of littered sites that are routinely cleaned up by various City departments.

Retailer: No impact

Option 2: Mandate that Stores Adopt the Elements of the Where's Your Bag? Program

Under this approach, Council would adopt an ordinance requiring retailers to post a designated amount of parking lot and in-store signage, as well as to provide educational materials to customers, including brochures and window decals, to encourage their use of reusable bags when shopping. Retailers would be responsible for providing training to new employees concerning the benefits of reusable bags and techniques for encouraging their use with customers. Additionally, retailers would be required by the ordinance to provide reusable bags for sale at the point-of-purchase and report to the City, on a quarterly basis, how many customers are using reusable bags. Note that the City already administers the Where's Your Bag? Program with large grocery stores and smaller markets on a voluntary basis.

Potential Impacts:

Consumer: Consumers could continue to receive plastic or paper bags, but would be encouraged to bring their own reusable bags when shopping. Retailers would continue to pass on the cost of single-use bags to consumers in the purchase price of goods as described in Option One.

³ Staff communication with representatives of Tri-County Produce and Albertson's Grocery Company

City: The City would incur additional costs to implement the ordinance, monitor reporting and take enforcement action against non-compliant retailers. In Fiscal Year 2011, the Environmental Services Division allocated approximately \$23,000 in staff time and \$15,000 on educational materials and community outreach on the voluntary Where's Your Bag? Program. An additional \$14,000 in private donations was used to offset the costs to produce educational materials and conduct public outreach.

Retailer: Retailers would incur added costs to train staff, supply education materials, install signage and track and report reusable bag usage to the City. The average cost to equip a store with educational materials under the Where's Your Bag? Program is approximately \$200.00. In addition, non-compliant retailers would incur penalty fees as prescribed by the ordinance.

Environment: Under the voluntary Where's Your Bag? Program, Environmental Services has distributed approximately 3,800 reusable bags to City residents. Any decrease in the impact to the environment (as compared to Option 1) would depend on how many consumers opt to switch to reusable bags under this scenario. Tri-County Produce, a local retailer, has actively promoted reusable bags and has noted a 36% increase in the use of reusable bags by its customers since joining the program.

Other Considerations: Assembly Bill 2449 was adopted in 2006 and went into effect on July 1, 2007. Assembly Bill 2449 requires grocery stores in California to take back and recycle plastic grocery bags. While the statute prohibits municipalities from auditing performance or requiring additional reporting by the store with respect to plastic bags, it is silent on whether these prohibitions also apply to reusable bags. It is therefore unclear whether an ordinance that requires stores to report on the use of reusable bags would run afoul of the state prohibition against additional local reporting requirements. Currently, AB 2449 is scheduled to sunset on January 1, 2013. If Council is concerned about a challenge to the reporting requirement, the Council could delay adopting the reporting requirement until after the statute sunsets.

Option 3: Voter Approved Tax on Paper and/or Plastic Bags

Under this approach, consumers could continue to receive plastic or paper bags, but a voter-approved tax on paper bags, plastic bags or both would be levied. Depending on the use of the tax proceeds, the measure would either require a simple majority vote or two-thirds voter approval. A special tax, in which the proceeds are earmarked for a specific purpose requires a two-thirds voter approval. A general tax, which would become part of the unrestricted revenues in the City's General Fund, requires only a simple majority voter approval.

Generally speaking, staff would not recommend a tax on plastic bags alone, as the tax would simply encourage consumers to shift to paper bags. Based upon life cycle analyses, such a shift would have a greater negative impact on the environment than the current

practice of distributing plastic bags. Similarly, staff would not recommend a tax on both plastic and paper bags, for both practical and legal reasons. Staff would therefore recommend (within the context of this option) a tax on single-use paper bags only, coupled with a ban on single-use plastic bags, as described below under option number four.

Potential Impacts:

Consumer: Assuming a tax of \$0.10 - \$0.25 per bag, consumers who chose to purchase plastic or paper bags at checkout would pay an estimated \$32-\$81 per year, assuming that consumers use 325 plastic bags per year. However, consumers who switch to reusable bags would avoid this additional premium after an initial investment of \$8-\$24 to purchase reusable bags.

City: The City may choose to conduct a survey of voters about voter support for such a tax and the level of tax that voters would support. The cost of such a survey is estimated at \$25,000. Unless the ballot measure is deferred to a regularly scheduled City General Election, the City would also incur additional costs to hold a special election and to assess taxes. A tax on single-use bags would generate additional revenues to the City, the amount of which would depend upon the level of the tax and any increases in consumer use of reusable bags. The City would also need to prepare an initial environmental review in order to determine if an Environmental Impact Report (EIR) is required by CEQA.

Retailer: Retailers would incur the cost to program their cash receipting systems to both collect and track the taxes. They would have to prepare a form that would be provided by the City to accompany their remittance of taxes, similar to forms completed by hotels for remittance of transient occupancy taxes collected from customers via the hotel rates.

Environment: The financial premium placed on one or both types of single-use bags would likely persuade more consumers to use reusable bags than under the voluntary Where's Your Bag? Program, resulting in a reduction in the number of plastic bags in the environment.

Option 4: Ordinance to Prohibit Distribution of Single-Use Bags and Impose a Fee on Single-Use Paper Bags

Under this approach, Council would adopt an ordinance prohibiting the distribution of plastic bags by retailers and placing a fee on paper bags. This approach contemplates that the City would possibly need to seek voter approval for the fee on single-use paper bags at a range consistent with Option 3 previously discussed.

The Cities of San Jose, Santa Monica and Los Angeles County, have recently adopted similar ordinances that apply a fee of \$0.10 to \$0.25 on paper bags. In those cases, the agencies elected to have the retailers retain all revenue generated by the fee, purportedly to avoid the voter-approval requirement required by Propositions 218 and 26. To our

knowledge, these communities have not seen a legal challenge. Based on the advice of the City's legal counsel, staff would not recommend following the approach used by these agencies until this approach has been found to be consistent with state law, but rather recommends that a paper bag "fee" be submitted to a vote of the community. Moreover, with a voter approved fee, the City would have the flexibility to determine how the tax proceeds would be used, including allowing the retailers to retain a portion to cover the increased costs of providing paper bags. Some municipalities have also placed restrictions on how revenue from the fee can be used, such as for the production of educational materials.

Potential Impacts:

Consumer: Consumers who chose to pay the fee on paper bags at checkout would pay an estimated \$32-\$81 per year for single-use bags. However, those who switch to reusable bags would not pay an additional premium at checkout after an initial investment of \$8-\$24 to purchase reusable bags.

City: The City would incur significant costs to implement this option. In order to withstand a CEQA challenge, many jurisdictions have opted to prepare an Environmental Impact Report (EIR) for the proposed ordinance at an estimated cost ranging from \$50,000 - \$100,000. Substantial staff resources would also be expended to develop, circulate, implement, monitor and enforce the ordinance. For example, the City of San Jose expended 4,000 staff hours in the preparation and adoption of its recent ordinance. If the City elected to keep all or part of the tax revenues generated from the fee, the City would realize additional revenues that are restricted to a specific purpose, or if unrestricted the revenues provide additional financial resources to the General Fund.

Retailer: Retailers would save \$.02-\$.03 on each plastic bag currently distributed at check out. Depending on the structure and allocation of the tax proceeds, retailer may be allowed to retain a portion or all of the taxes to defray the additional cost of the providing single-use paper bags. Council may have the option to choose whether to apply restrictions on the use of this revenue.

Environment: Banning plastic bags and imposing a City fee on paper bags would likely yield the greatest reduction of plastic bags and therefore the greatest benefits to those environments impacted by plastic bags, such as local beaches and the marine environment. Because paper bags create their own impacts on the environment, in particular those associated with their production, this option may increase those impacts if it results in higher use of paper bags. The greatest benefit to the environment is achieved when this approach results in the shift from both plastic and paper bags to reusable bags, which is the intended goal of all options. This option appears to have the greatest potential for achieving this end result.

Other Considerations: Imposition of a fee on paper bags would likely be construed as a tax and therefore be subject to voter approval.

Recent Developments

Since the February 1, 2011 Council meeting, the following developments related to plastic bag restrictions have developed in other municipalities:

- The City of Calabasas adopted an ordinance banning plastic bags.
- Save the Plastic Bag Coalition (STPBC), a plastic industry group, filed a lawsuit against the County of Marin challenging its ordinance to ban plastic bags and to impose a \$.05 fee on paper bags. This legal challenge is noteworthy as Marin County opted to invoke a categorical exemption under CEQA in lieu of preparing an environmental impact report. STPBC also sued the Cities of Manhattan Beach and Oakland, claiming that the environmental impacts caused by an ordinance that effectively promotes the use of paper bags was not properly evaluated in an EIR. A decision in the Manhattan Beach case is pending a decision before the California Supreme Court while the City of Oakland lost the suit, at both the trial court and the court of appeals levels.
- On May 17, 2011, the City of Long Beach adopted an ordinance to ban single-use plastic bags and place a \$0.10 fee on paper bags. The ordinance will take effect in August 2011 for larger retailers and will apply to all retailers in 2012. To date, a legal challenge to the Long Beach ordinance has not been filed.
- On April 26, 2011, the Santa Clara County Board of Supervisors adopted an ordinance to ban single-use plastic bags and to place a \$0.15 fee on single-use paper bags throughout unincorporated county areas. The ordinance will take effect on January 1, 2012.

In addition to these legal developments, on April 27, 2011, the Albertsons Grocery Company launched its “bagless” program in its Carpinteria store. As a result, the store no longer offers paper or plastic bags at check-out. During a recent conversation with staff, Albertsons representatives stated that sales remain steady and that the store has not observed any increase or decrease in customers since the launch of the bagless program.

Moreover, staff along with County staff, successfully negotiated with Gold Coast Recycling, the City’s processor, to accept plastic bags and other film plastic bags in residential and commercial recycling containers and to divert these materials from landfill disposal.

Council Action Report
Options For Reducing The Distribution Of Single-Use Bags Within The City Of Santa
Barbara
July 12, 2011
Page 10

PREPARED BY: Matt Fore, Environmental Services Manager

SUBMITTED BY: Robert Samario, Finance Director

APPROVED BY: City Administrator's Office